

AMENDED IN ASSEMBLY MAY 8, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1206

Introduced by Assembly Member Smyth

February 23, 2007

An act to add Section 6377 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1206, as amended, Smyth. Sales and use taxes exemption: research and development.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property and provides various exemptions from the taxes imposed by that law.

The bill would exempt from those taxes, for calendar years beginning on or after January 1, 2008, the gross receipts from the sale of, and the storage, use, or other consumption of, machinery, equipment, and replacement parts used ~~in~~ *to conduct* research and development, as specified.

This bill would specify that this exemption does not apply to local sales or transactions and use taxes *and specified state sales and use taxes*.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6377 is added to the Revenue and Taxation Code, to read:

6377. (a) (1) For calendar years beginning on or after January 1, 2008, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, machinery, equipment, and replacement parts used directly in research and development relating to inventions, products, or technologies ~~that are exempt from sales and use taxes under this part.~~

(b) For purposes of this section, “research and development” has the same meaning ascribed to that term by Section 41(d)(1) of the Internal Revenue Code.

(c) No exemption shall be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe, and the retailer subsequently furnishes the board with a copy of the exemption certificate. The exemption certificate shall contain the sales price of the machinery or equipment that is exempt pursuant to subdivision (a).

(d) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) *Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Sections 6051.2, 6051.3, 6201.2, and 6201.3, or pursuant to Section 35 of Article XIII of the California Constitution.*

(e) ~~(1)~~ Notwithstanding subdivision (a), the exemption provided by this section shall not apply to any sale or use of property which, within one year from the date of purchase, is either removed from California or converted from an exempt use under subdivision (a) to some other use not qualifying for the exemption.

~~(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied~~

1 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35
2 of Article XIII of the California Constitution.

3 (f) If a purchaser certifies in writing to the seller that the property
4 purchased without payment of the tax will be used in a manner
5 entitling the seller to regard the gross receipts from the sale as
6 exempt from the sales tax, and within one year from the date of
7 purchase, the purchaser (1) removes that property outside
8 California, (2) converts that property for use in a manner not
9 qualifying for the exemption, or (3) uses that property in a manner
10 not qualifying for the exemption, the purchaser shall be liable for
11 payment of sales tax, with applicable interest, as if the purchaser
12 were a retailer making a retail sale of the property at the time the
13 property is so removed, converted, or used, and the sales price of
14 the property to the purchaser shall be deemed the gross receipts
15 from that retail sale.

16 ~~(g) This section applies to leases of tangible personal property~~
17 ~~classified as “continuing sales” and “continuing purchases” in~~
18 ~~accordance with Sections 6006.1 and 6010.1. The exemption~~
19 ~~established by this section shall apply to the rentals payable~~
20 ~~pursuant to such a lease, provided the lessee is a qualified person~~
21 ~~and the property is used in an activity described in subdivision (a).~~
22 ~~Rentals that meet the foregoing requirements are eligible for the~~
23 ~~exemption for a period of six years from the date of commencement~~
24 ~~of the lease. At the close of the six-year period from the date of~~
25 ~~commencement of the lease, lease receipts are subject to tax~~
26 ~~without exemption.~~

27 SEC. 2. This act provides for a tax levy within the meaning of
28 Article IV of the Constitution and shall go into immediate effect.